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Fifty-first session
Agenda item 12

QUESTION OF VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 3 March 1995 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to refer to the letter dated 17 October 1994 from the Permanent Representative of the Republic of Indonesia, circulated as Commission on Human Rights document E/CN.4/1995/107

The enclosure to the letter made reference to an interview given by Mr. Patrick Nicholls, a British Member of Parliament, after his visit to East Timor in September 1994, and attributed various comments to him. Mr. Nicholls has asked that his own note of the interviews he gave at that time be circulated. I enclose this note.

Mr. Nicholls was the leader of a delegation of members of the UK-Indonesian All-Party Parliamentary Group which visited Indonesia and East Timor from 8-25 September 1994. The views of members of All-Party groups are expressed in an individual capacity and do not necessarily reflect those of Her Majesty's Government.

I have the honour to request that this letter and its enclosure be circulated as a document of the fifty-first session of the Commission on Human Rights.

(Signed) N.C.R. Williams
Ambassador

NOTE BY MR. PATRICK NICHOLLS MP ON HIS VISIT TO INDONESIA AND EAST TIMOR, SEPTEMBER 1994

"Mr. Nicholls gave a number of interviews to the mass media during his visit to Indonesia. He made the point on a number of occasions that no one suggested, not even the Indonesian Government, that there had not been human rights abuses in the past. Similarly, everyone, including the Government, accepted that there was still room for improvement. Members of the delegation however had been told that the laws of Indonesia protected human rights and a number of examples were given to them of the seriousness with which the Indonesian Government took any abuses. He mentioned in particular the Commission for Human Rights which had been established.

"Mr. Nicholls pointed out that members of the delegation had been given impressive examples of Indonesian investment in developing East Timor. They had also been shown the Armed Forces role in their civic mission programmes, for instance in providing computer courses, basic technological training for the East Timor youths.

"Mr. Nicholls said that while the occupation of East Timor was clearly in breach of international law, that situation could only be ultimately regularized by the Governments of Indonesia and Portugal. Those who sought to criticize Indonesia had to understand the history and geography of the region, the natural proximity of East Timor to the rest of Indonesia and in particular the power vacuum which was left when the Portuguese abruptly abandoned their former colony. Mr. Nicholls noted that the Indonesian Government had made clear that they were not simply occupying East Timor but gave a very high priority to continuing development of and investment in East Timor.

"Mr. Nicholls said that much of the criticism voiced in the West against Indonesia generally, and in the matter of East Timor, was grossly exaggerated. In particular the figure of 200,000 deaths in East Timor since 1975, with the implication that those deaths were caused directly or indirectly by the Indonesian military, was accepted entirely uncritically.

"Mr. Nicholls also made it clear that even dissidents had stressed that there had been a marked improvement in human rights matters generally in the last 18 months. Those in the West who accepted uncritically every allegation made against the Government had to ask themselves whether their behaviour was likely to advance or retard the cause of human rights."

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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 17 February 1995 from the Permanent Representative of the Sudan to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to enclose herewith the response of the Government of the Sudan to the report issued by Amnesty International.

I kindly request you to officially circulate this response as an official document of the fifty-first session of the Commission on Human Rights under agenda item 12.

(Signed): Ali Ahmed Sahloul
Ambassador

GE.95-12432 (E)

THE CROCODILE TEARS

The call by Amnesty International for the abolition of
Islamic Laws is a flagrant violation of the
right to Freedom of Religion

A response by the Government of the Sudan
to the highly dramatic book published recently by
Amnesty International under the title "The Tears' of Orphans"

The Crocodile Tears

A response by the Government of the Sudan
to the highly dramatic book published recently
by Amnesty International under the title
"The Tears of Orphans"

At the outset, we would like to point out that it is one thing to accuse the Government of the Sudan of violations of human rights, but it is a completely different thing to call for the abolition of Islamic laws. Consequently, and because of the absurdity of that call, we will consider it in Part One of this response while considering the alleged violations in Part Two.

PART ONE

The call for the abolition of Islamic Laws

It is interesting to note that Amnesty International has, in its book, accused the Government of the Sudan of deflecting human rights criticism by accusing its critics of being motivated by a desire to oppose or insult Islam. Ironically, the book itself proves beyond any shadow of doubt that there is not only a "desire" on the part of Amnesty International to oppose or insult Islam, but it has actually "insulted" Islam and called for the "abolition" of its penal laws in many parts of the book. The following are some examples:-

1. On page 128 of the book, "the Government should abolish cruel, inhuman or degrading punishments in law. The punishments of stoning to death, crucification, mutilation and flogging should be removed from the Penal Code 1991. Pending their abolition, the sentences of flogging and mutilation should be suspended. All amputation and death sentences should be commuted. The death penalty should be abolished."

2. On pages 2 and 3, "in 1991 the government introduced a penal code which provides for cruel, inhuman and degrading penalties: flogging, amputation and stoning to death."

3. On page 40, "certain provisions within the Penal Code, notably those providing for the punishments of flogging and amputation, constitute cruel, inhuman or degrading punishments under international standards."

4. On page 39, "to many Sudanese the existence of a penal code based on an interpretation of Shariah Law is deeply contentious, not only to non-Muslims but also to many Muslims in Northern Sudan."

Evidently, those quotations substantiate our claim that Amnesty International has insulted Islam and has called for the abolition of its Laws so it has no grounds, whatsoever, for accusing the Government of the Sudan of deflecting human rights criticism by accusing its critics of being motivated by a desire to oppose or insult Islam.

As regards the substance of the call by Amnesty International for the abolition of Islamic Laws, we believe that such call is in itself a flagrant violation of the International Human Rights Law, in particular Article 18 of the International Covenant on Civil and Political Rights which provides that everyone shall have the right to freedom of religion which includes freedom to manifest the religion in worship, observance, practice and teaching. Obviously, such violation renders Amnesty International morally and legally obliged to withdraw the call and openly apologize for having violated the right of all Muslims to freedom of religion and for having offended their feelings. On the other hand, we call upon all organizations with which Amnesty International has formal relations, including the United Nations Economic and Social Council (ECOSOC); the United Nations Educational, Scientific and Cultural Organization (UNESCO); the Council of Europe; the Organization of American States; the Organization of African Unity; and the Inter-Parliamentary Union, to review their formal relation with Amnesty International in the light of its unwarranted call for the abolition of Islamic Laws.

PART TWO

The alleged violations of human rights

First: The failure of Amnesty International to justify why has it selected the Sudan

It is common knowledge that selectivity in the field of human rights is an unwelcomed practice since it casts long shadows on the impartiality and objectivity of human rights observers. For that reason, selectivity has been condemned by the International Community in the most recent international human rights instrument adopted by consensus, that is Vienna Declaration and Program of Action.

Fully aware of that aspect, Amnesty International knew that it owes the international community an explanation for having selected the Sudan by publishing such a dramatic book about it. The explanation was made right at the beginning of the book, even before its introduction, explicitly admitting that Amnesty International, " does not grade countries according to their record on human rights; instead of attempting comparisons it concentrates on trying to end specific violations of human rights in each case."

Obviously, the explanation offered does not justify the selection of the Sudan, since Amnesty International has explained its determination to concentrate on trying to end specific violations of human rights but did not explain why it has decided to concentrate on the alleged violations in the Sudan and not on the gross and more persistent violations of human rights taking place in other parts of the world and reported almost on daily basis by the world media.

However, by raising the issue of selectivity, the Government of the Sudan is in no way advocating that human rights violations are justifiable because there are also human rights violations in other parts of the world, or acknowledging the existence of the unfounded allegations referred to in that book and which will be refuted later in this response.

Second: <u>Amnesty International is purposely avoiding grading countries according to their record on human rights to hide its selective approach.</u>

As quoted above, Amnesty International has acknowledged that it does not grade countries according to their record on human rights, but it did not explain why it has not undertaken that most needed exercise which does not require much effort. In fact, Amnesty International knew perfectly well that if it has undertaken that grading, then it would loose any justification for selecting the

Sudan, since human rights violations in many countries, in particular in some western countries, exceeds by far the allegations levelled against the Sudan. To give concrete examples substantiating our view point, we refer to the following human rights violations committed in some western countries and reported in US Country Report published in February 1994:

1- In one single country more than 700'000 persons from minority groups, including Turkish and Moroccan workers and family members, face de facto discrimination.

2- A study published in one country in 1992 showed that 29 percent of working women (age group 25-34 years) had been a victim of sexual harassment in the workplace.

3- In one country a total of 482 anti-Jewish incidents were recorded during the first ten months of 1993.

4- In one country there were violations of the human rights of more than 70'000 Gypsies.

5- In another country suspects ran a "not inconsiderable risk of being mistreated" while in police detention.

Third: Why making the current Government responsible for violations committed long before it assumes power:

The negative and hostile attitude of Amnesty International towards Islam includes the technique of holding any government advocating Islam, like the current Government in the Sudan, responsible for all human rights violations committed before it assumes power. That attitude was reflected in the following:

1- Despite the fact that the three years (1986-1989) of multi-party democracy in the Sudan, ended by the present regime, were deeply problematic for human rights as has been rightly described, by Amnesty International on page 1 of its book, it has never before made a publication addressing those violations waiting for a government advocating Islam to pay the overdue bills.

2- If it is true that since 30 June 1989 (date of assumption of power by the present regime) virtually all sectors of Sudanese society have experienced persistent and gross violations of human rights as alleged on page 1 of the same book, why has Amnesty International kept silent all those years and was only shedding tears now after the application of Shariah Laws.

3- Moreover, Amnesty International is holding the current Government of the Sudan responsible even for violations dating back to 1985, long before it has assumed power. An example of that attitude is on page 59, "The advent of a civilian government in 1986 saw a dramatic intensification of human rights violations. The militia policy was extended. New forces were formed and were responsible for gross human rights violations. Throughout 1987 in Wau, the largest town in Bahr al-Ghazal, government troops and Fertit militia abducted and murdered hundreds of Dinka civilians. Killing reached a peak in August and September with the massacre of over 1'000 civilians in apparent reprisal for a missile attack on a military plane. Between 1985 and 1988 northern Bahr al-Ghasal was devastated by a series of raids by the murahaleen, a militia raised from the Rezeiqat and Misseriya nomadic tribes of Southern Darfur and Southern Kordofan. Initially self-armed, the murahaleen developed close links with the armed forces and the Umma Party, historically the strongest party in western Sudan. The raids, which involved killing of thousands of Dinka civilians, rape, the abduction of women and children, the looting of livestock and the destruction of homesteads, led to severe famine in northern Bahr al-Ghasal and the displacement of hundreds of thousands of civilians, many of whom ended up squatting in shantly towns in and around Khartoum."

Fourth: <u>Amnesty International is interested in publishing allegations against the Sudan irrespective of their credibility</u>

In 1991 when the campaign against the human rights record of the Sudan has suddenly erupted for the first time, immediately following the application of Shariah (Islamic Laws), the Government of the Sudan has extended an invitation

invitation was, unexpectedly, turned down for reasons not explained to the Government. Nevertheless, when Amnesty International expressed, in 1994, its desire to visit the Sudan, the government responded positively and both parties have mutually agreed that the visit shall take place during the last week of March 1995, thereby giving Amnesty International the opportunity to verify, for itself, all the allegations levelled against the Government.

Thereafter, and without any prior notice, Amnesty International mounted a dramatic campaign against the human rights record of the Sudan extending it to many foreign capitals. Amongst the published materials of the campaign is the book "The Tears of Orphans" which is the subject matter of this response. In the light of those circumstances and since human rights are not a bilateral concern, we believe that Amnesty International owes the international community an explanation why has it decided not to honour its gentleman agreement with the Government of the Sudan, and has published the allegations despite the visit was intended to enable it to verify those allegations, thereby rendering the visit meaningless.

In our view that unjustifiable course of action by Amnesty International has only one of two explanations, either that Amnesty International does not want to miss the occasion of the 51st session of the Commission on Human Rights and for that matter it has no moral prohibitions and could go, in its confrontation with Islam, to the extent of dissiminating allegations against the Sudan without bothering to wait for their verifications during its scheduled visit to the Sudan in March 1995 or that, Amnesty International is eager to distort the image of the Government which is applying Islam in the Sudan and would not want to risk waiting the conclusion of its visit to the Sudan since, during the visit, evidence, refuting the allegations, might come out, leaving Amnesty International with nothing to use against the Government. And, obviously, no one of the explanations is more advantageous to Amnesty International than the other.

Certainly, the position taken by Amnesty International was not without logic since recently evidence has come out refuting the whole series of allegations levelled against the Sudan in the field of enforced or involuntary disappearances. An example of such evidence is the report of the Working Group on Enforced or Involuntary Disappearances contained in document (E/CN.4/1995/36) dated 30 December 1994 which contains the following

reported to the Working Group, notwithstanding the ongoing civil war in Southern Sudan." Moreover, the statistical summary on page 94 of that report shows also that the total number of the cases of disappearances in the Sudan are only six and four of them have already been clarified to the satisfaction of the Working Group, bearing in mind that the unclarified cases in many countries reaches several thousand cases.

To conclude on this issue, we believe that it is all the same, whether Amnesty International has no moral prohibitions, or whether it does not want to miss the opportunity of distorting the image of the Government of the Sudan by waiting the conclusion of its visit to the Sudan which might prove the falsity of the allegations, since either of the explanations is a sufficient evidence that Amnesty International, at least with regard to the Sudan, has been biased and dishonest.

Fifth: The allegations are unfounded:

After having pointed out to the true reasons why has Amnesty International selected the Sudan out of more than 150 countries mentioned in its 1994 annual report, many of which are accused of gross violations far more than the Sudan, and after having explained why has Amnesty International opted not to wait until it verifies the allegations during its scheduled visit to the Sudan during March 1995, it is timely now to address the substance of the allegations contained in its book "The Tears of Orphans" in the following paragraphs:-

A. SWEEPING GENERALIZATIONS:

The main technique used by Amnesty International in the book is the resort to sweeping generalizations which require nothing more than the comfort of an office while having a tremendous negative impact on the image of the Government of the Sudan. On the other hand, it seems that technique has been carefully chosen by Amnesty International since there is no way to refute such generalizations. Some examples of those generalizations are as follows:

1- Right away and on the back cover page of the book we find the following remark, "The Military government's drive to control

Sudan has produced human rights violations on a staggering scale across the country. No one is safe."

If that remark has come from a small organization or from an individual human rights observer, we would have discarded it as irresponsible and as such unworthy of any comment. But when the remark comes from Amnesty International, having more than one million members and more than 8'000 local groups in over 70 countries, we have to pause and think what strong motivation could have caused Amnesty International to go to the extent of saying " no one is safe" in the Sudan, other than its unwarranted animosity towards Islam.

Also, we notice that the claim of Amnesty International that "no one is safe" in the Sudan contradicts its own acknowledgment on page 12 of the book that even inside prisons "physical ill-treatment by prison guards is not common."

2- As explained earlier, the excellent record of the Sudan in the field of disappearances is reflected in the most recent report of the Working Group of the Commission on Human Rights dated 30 December 1994 which shows that only two cases remain unclarified, nevertheless Amnesty International has a different story to tell on page 3 of its book, "Thousands of people....have disappeared." However, had it not been for the book "The Tears of Orphans", no one would have believed that the animosity of Amnesty International towards Islam would lead it to publish such information which is contradicting the most recent and authentic reports of the agents of the Commission on Human Rights.

3- Likewise, and as regards extra judicial executions, Amnesty International has the following to state on page 3 of its book, "thousands of people have been extra judicially executed." But once again when we consult the most recent report about extra judicial, summary or arbitrary executions submitted by the Special Rapporteur, Mr. Bacre Waly, in document (E/CN.4/1995/61) dated 14 December 1994, we find that he has explained that he had made an urgent appeal to the Government of the Sudan on 30 April 1993

only with respect to three persons (many more in other countries) and the government has responded explaining that the three persons are each serving a five years imprisonment term after having been found guilty of plotting to overthrow the Government and carrying out attacks on some essential public installations.

In this connection, we would like to add also that the Special Rapporteur on the situation of human rights in the Sudan, Mr. Gaspar Biro, was in Khartoum on 21 December 1993 when the public trial of the above-mentioned persons was about to commence, and that the Government of the Sudan has invited him to attend the court sessions to see to it that justice has been done to them, but Mr. Biro apologized without giving any reasons. However, we believe that he did not want to miss the Christmas festivities back home which were about to start.

4- Another provocative sweeping generalization, which could not be true in any part of the world, is on pages 1 and 5 of the book. "Since 30 June 1989 virtually all sectors of Sudanese society in all parts of the country have experienced the persistent and gross violation of human rights....people from virtually every walk of life in Sudan are at risk of human rights abuse by those in authority."

5- With regard to detention and torture, we find also more generalizations on pages 9 and 13, "Thousands of Sudanese citizens have spent periods in detention since June 1989. Many have been tortured...and many others have been detained..Hundreds of political prisoners were arrested in 1989 and 1990."

6- More often than not the generalizations were purposely and dishonestly used by Amnesty International to give the impression that a large number of persons were arrested while the arrest was actually for one single individual. We see an example of such attitude on page 14 of the book "in 1993 journalists were arrested in January and March."

7- Even with the sweeping generalizations the whole book is tainted with contradictions, so the "thousands" of detainees since 1989

referred to in (5) above have been converted, without any explanation, into "dozens" on page 16 of the book, "since 1989 dozens have been arrested, detained for several months and released."

B. THE INDEPENDENCE OF THE JUDICIARY HAS BEEN MAINTAINED:

1. Amnesty International has alleged that since the assumption of power by the current government the independence of the judiciary in the Sudan has been undermined "through constitutional changes" and assumption of "wide-ranging powers over the appointment of judges." And on page 26 it, explicitly, stated that "the repeated purging of officials in the Attorney General's offices and the judiciary means that Sudan's legal system is no longer independent of the government. The limited possibilities of review by magistrates do not amount to an appeal to an impartial judicial body."

Actually that allegation has no factual base whatsoever since the judiciary was one of the institutions whose legislative framework, prevailing during the multi-party democracy, has been maintained as it was. That determination on the part of the Government of the Sudan explains why no amendments or changes were ever attempted to the Judiciary Act of 1986. So the reference by Amnesty International to "constitutional changes" in the judicial system in the Sudan and to the "wide-ranging powers over the appointment of judges" is yet another intentional and dishonest distortation of the facts by Amnesty International.

2. The distortation by Amnesty International of the facts about the judiciary in the Sudan was not confined to the purported "constitutional changes" but it has gone as far as alleging that the judges were "replaced by political appointees thus ensuring a compliant judiciary." But how come that a politically appointed judge would intervene upon the demand of the family of a deceased person and "order another autopsy" contradicting the official autopsy as reported by Amnesty International on page 30 of the book. And how come evidence has emerged during a trial supported by official medical reports "requested by the court", that at least five of the accused had been forced to confess after being tortured, as reported by Amnesty International on page 36.

If that challenge to the official action by the judges, reported by Amnesty International itself, proves anything at all it proves beyond reasonable doubt that the judiciary in the Sudan enjoys complete independence. But it seems that Amnesty International wants, at the same time, to have its cake and eat it by claiming on one hand that the appointment of judges is subject to political considerations, and on the other hand relying on the outcome of the fair actions undertaken by those judges.

C. THE SPECIAL RAPPORTEUR HAS ALREADY VERIFIED THE ALLEGATIONS BY INTERVIEWING MR. AL-RAYAH

When referring to the alleged sexual abuse at detention centres, Amnesty International has cited the case of Brigadier Mohamed Ahmad Al-Rayah and concluded by stating that "in November 1993 the authorities announced that a judicial investigation into the allegations was under way, but no report of this investigation has been published." But as is the case in all its biased reporting about the Sudan, Amnesty International has declined to mention that in December 1993 the Special Rapporteur (Mr. Gaspar Biro) visited the Sudan and requested the adjournment of the judicial investigation so as to interview Mr. Al-Rayah in camera about the alleged sexual abuse, threatening that otherwise he would conclude that the allegation is true. Also it has declined to mention that the Sudanese authorities have responded positively to the request of the Special Rapporteur, thereby enabling him to interview Mr. Al-Rayah in camera. However, when the Special Rapporteur reported to the 50th session of the Commission on Human Rights no reference was made to the alleged sexual abuse or to his interview in December 1993 in Khartoum with Mr. Al-Rayah. Obviously, the only logical explanation for such omission on the part the Special Rapporteur is that he was convinced that the allegation was not true, otherwise he would have enjoyed reporting the facts to the last minute detail.

We have every reason to believe that Amnesty International is fully aware of the interview between Mr. Al-Rayah and the Special Rapporteur which proved that the allegation is not true, but it would like to confuse the issue to the detriment of the Sudan by claiming that no report of the investigation has been published. Actually, there was no report because Mr. Al-Rayah has requested in writing that the judicial investigation be discontinued.

D. WHILE REQUESTING THE REPORT OF AN INVESTIGATION, AMNESTY INTERNATIONAL CLAIMS THAT IT DOES NOT KNOW OF A SINGLE CASE OF INVESTIGATION

If we owe Amnesty International anything at all we owe it an admission that the refutation of the allegations reported in its book needs nothing more than a comparison between the different paragraphs of the book. A case in point is the reference on page 31 that "In August 1993 Brigadier Mohamad Ahmad Al-Rayah Al-Faki, then held in Suakin civil prison, wrote a petition to the Minister of Justice in which he alleged that after his arrest in august 1991 on suspicion of involvement in a coup attempt he was raped by security men.....In November 1993 the authorities announced that a judicial investigation into the allegations was under way..." Nevertheless, on page 26 Amnesty International has a completely different story to tell about investigations, "Amnesty International does not know of a single case in which a detainee has been able to appeal against non-compliance with detention regulation or against ill-treatment."

If that contradictory reporting has come in different reports we would have found excuses for Amnesty International but as it stands now in one single report it amounts to nothing less than an intended disinformation not showing any degree of respect to the reader of the book, to say the least.

E. THE PHOTOGRAPH OF KOBER PRISON SHOULD HAVE BEEN COUPLED WITH THE COMMENTS OF THE SPECIAL RAPPORTEUR ABOUT THAT PRISON

On page 11 of the book a photograph of one of the prisons in the Sudan (Kober Prison) was put coupled with an unsubstantiated comment that hundreds of political prisoners have been held in Kober Prison since the government seized power in 1989. But no comment was made regarding the conditions inside that prison despite the fact that there is readily available information in the report of the Independent Expert, contained in document (E/CN.4/1993/R..4) dated January 1993, who has visited that prison and described the conditions inside it as follows " In Kober Prison there was a number of approximately 15 persons, who had participated in the 1990 plot .the condition of these persons..was very good, since their relatives supplied them regularly with food, books newspapers, radios and one TV set.. The Independent Expert is inclined to conclude that

human rights are respected in Kober Prison. This opinion is shared by independent sources also."

Ironically, if we are to judge Amnesty International in that respect by the words of the Independent Expert (its partner in its animosity towards Islam) quoted above, we would conclude that Amnesty International is not an "independent source" since it has not shared the opinion of the Independent Expert that human rights are respected in Kober Prison. On the other hand, Amnesty International has also referred to hundreds of political detainees despite it has not visited the prison, while the Independent Expert who has visited the prison and made an official report was only referring to 15 persons.

Actually, even if we confine ourselves to the above instance we believe we have strong evidence to conclude that the bias of Amnesty International towards the Sudan has reached an intolerable degree.

F. TORTURE

Amnesty International has made the point that the official denial that torture is systematic is at odds with the testimony from dozens of former prisoners who have been held in the so called "ghost houses" or the security headquarters at different times. In that connection, it suffices to mention the incident that when Sadiq al-Mahadi the ex-Prime Minister of the Sudan was arrested in 1994, a lot of allegations were made to the effect that he has been tortured. In fact, many appeals were made requesting the Government of the Sudan to stop the torture practiced against him by security officers. The Government has responded by denying the allegations and explaining that torture has never been and would never be the policy of the State not only because of its prohibition under international human rights law but because it is not allowed by Islam. But, nevertheless, many human rights observers, undoubtedly including the biased ones, would not believe the government. Fortunately, Sadiq al-Mahadi, after his release, appeared on Sudan TV screen explaining to the public at large that he has never been subjected to torture and that he has enjoyed good treatment.

Now, in the face of the allegations raised by Amnesty International regarding torture we reassure the international community, once again, that torture has never been and would never be the policy of the government, and that

such practice is an offence under the domestic laws. On the other hand, the government can't compel the released detainees to make statements or appear on the TV refuting the allegations of torture unfairly levelled against the Government of the Sudan.

G. THE DISPLACED ARE NO LONGER SO:

According to Amnesty International "transit" camps were established for the displaced in a "dry and wind-swept site" 12 kilometres west of Omdurman and other sites, and that in some situations riots have ensued as shanty town dwellers have tried to defend their homes and sometimes there was loss of life.

As a matter of fact when the Government of the Sudan has started its plans regarding the displaced, many people from inside and outside the Sudan have acknowledged that the Government has the sovereign right of town planning but nevertheless they have sympathized strongly with the displaced people arguing that the new camps are ill-prepared and grossly inadequate, and that the displaced earn their living from working in the town whether in formal employment or petty trading on wasteland and even on rubbish dumps which are better for them than the new camps.

Now, after more than four years, the situation has changed drastically and the government plans for the resettlement of the displaced around Khartoum has proved to be the miraculous lasting solution for their problems. Currently almost every displaced person is a landlord, after having been reduced to less than a tenant, owning 200 sq. m. formally registered in his/her name. The services are not yet ideal but has improved to a great extent and the site (Dar-Al-Salam) which was "a dry and wind-swept" has already been approached by an asphalt road and so it will only take a ten minute drive to reach the heart of the old city of Omdurman. In addition, there is now regular transportation so employment in Khartoum and interaction with the old city is no longer a problem. So we can confidently claim that if those people are given the free choice, the overwhelming majority of them would opt to stay where they are and not return to their rough old shelters.

H. STUDENT PROTESTS

The main reasons for student protests in the Sudan was the Government policy leading to the discontinuation of the provision of board and lodging in some universities. The out come of that policy was the opening of more than 20 new universities and high institutes distributed among the different regions of the country.

Despite the unquestionable positive impact of the Government policy, the students, the main beneficiaries of the old policy, were reluctant to accept the new policy which is similar to the policy widely adopted even in rich and developed countries. So they have made a series of protests which led to confrontation with the police forces. However, nothing serious has occurred and the protests were dealt with according to the laws, which were originally drafted by the British when they were colonizing the Sudan, and which are similar to the Laws applied in other countries.

I. EVEN DETENTION LASTING FOR FEW HOURS HAS BEEN REPORTED

It is only logical to conclude that if there are serious violations committed by the Government of the Sudan, Amnesty International would not have bothered to report even a few hours detention as it did in the following examples:-

1. On page 16 "Sadiq al-Mahdi, the Umma Party's leader, was held for 24 hours in April 1994"

2. On page 19 "The women were released within hours."

3. On page 20 "Most were released within hours."

J. STREET CHILDREN, A WELFARE MEASURE

We note that Amnesty International has depicted the children welfare measures taken by the Government of the Sudan as arbitrary detention. In doing so it was reiterating the hearsay evidence which the Special Rapporteur, Mr. Gaspar Biro, when visiting the Sudan during December 1993, has refused to substantiate by turning down the Government's invitation to visit Soba Camp which Amnesty International has referred to as a "clearing centre" with all the negative connotations accompanying that reference. To say the least, the efforts

of the Government of the Sudan regarding street children, despite its meager resources, should have been commended rather than condemned.

K. AMNESTY INTERNATIONAL IS NOT MANDATED TO INTERPRET INTERNATIONAL COVENANTS

On page 42 Amnesty International has claimed that "the Penal Code 1991 contains provisions for penalties which violate Sudan's treaty obligations under the International Covenant on Civil and Political Rights (ICCPR) and are inconsistent with international human rights law. These include the penalties of flogging and amputation, and provisions which allow for mutilation and death in retribution."

It is noteworthy that Amnesty International has deliberately avoided specific reference by Article when claiming that the Sudan Government has violated its obligation under the International Covenant on Civil and Political Rights (ICCPR). In fact the Article which is dealing with the subject is Article 7 of ICCPR which provides, inter alia, that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. But the covenant has not defined the "cruel, inhuman and degrading" punishment. So actually Amnesty International was making its own interpretation of the "cruel, inhuman and degrading" punishment by saying that it includes the penalties provided for in the Islamic penal code. Undoubtedly, no one can stop Amnesty International from making its own unwarranted interpretations of International Covenants, but definitely such interpretations have no weight whatsoever. What is serious about those interpretations is that they have been cited, by Amnesty International, in the book in such a way as to look as if they were provided for in the ICCPR itself.

L. DEATH PENALTY IS LEGAL UNDER DOMESTIC AND INTERNATIONAL LAW

On page 50 Amnesty International has made the point that it "opposes the death penalty in all circumstances as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment." Obviously, Amnesty International has the right to oppose the death penalty but as far as the Government of the Sudan is concerned, the Government does not oppose the death penalty and has, therefore, not ratified the Optional Protocol pertaining to death penalty. So death penalty in the domestic laws of the Sudan

is perfectly legal and also according to applicable international law . That position is shared by all the numerous countries which apply the death penalty (the majority of UN member States). And for that reason the opposition of Amnesty International to death penalty does not make it illegal in the Sudan or elsewhere and is most irrelevant

M. GOVERNMENTS ACKNOWLEDGING RESPECT OF HUMAN RIGHTS IN THE SUDAN ARE ACCUSED OF PURSUING POLITICAL INTERESTS

Amnesty International has acknowledged that some governments are convinced that there are no human rights violations in the Sudan, but that position which is favorable to the Government of the Sudan was not well received by Amnesty International which has accused them on page 107 of pursuing their own political interests "Some governments have begun to play down the seriousness of the human rights situation (in Sudan) in pursuit of their own political interests."

N. THE RECOMMENDATIONS OF UN AGENCIES FAVOURING THE SUDAN WERE TURNED DOWN

On page 108 Amnesty International has noted that several UN bodies and human right, theme mechanisms have considered complaints against the Sudan Government, and we would like, in that connection, to remind the international community and Amnesty International, in particular, that because of the political interests of some countries and some NGOs, all favourable or balanced recommendations towards the Sudan has not been adopted and instead more acute measures were taken. The following are two examples of such unprecedented practice:-

1. The recommendations of the Working Group on Situations to the Forty-Seventh session of the Commission on Human Rights were in favour of the Sudan noting with satisfaction the written and oral information furnished by the Government, its cooperation with the Commission, and the infrastructures already established. The text of the recommendations included the following:

a- Noting with satisfaction the written and oral information furnished by the Government of the Sudan to the Commission on Human Rights relevant to the human rights situation in Sudan;

b- Further noting with appreciation the infrastructures already established by the Government, particularly the assignment of a Minister to deal with issues pertaining to Human Rights;

c- Recording with satisfaction the assurances of the government to facilitate the necessary access to humanitarian assistance to population, and welcoming the agreement reached between the Government and the U.N. on the operational details of the new phase of Operation Life-Line Sudan (OLS);

d- Further calls on the Commission on Human Rights to take cognizance of the above and requests the Centre for Human Rights to extend the necessary assistance for advisory services which the Government of the Sudan may request.

No wonder, political pressures have been exerted and the confidential decision relating to the Sudan which was adopted on 26 February 1991 by, the Forty-Seventh session of the Commission on Human Rights has not reflected the recommendations referred to above of the Working Group on Situations which has verified the allegations, and surprisingly the decision included references to a deep concern regarding the human rights situation in the Sudan. Actually, that decision was intended to pave the way for more politicization of the issue of human rights in the Sudan in the future since it was not possible to go beyond those negative references in the decision in the light of the favourable recommendations of the Working Group on Situations.

2. During the Forty-Eighth session of the Commission of Human Rights also a similar incident has occurred when the Working Group on Situations submitted for the second time balanced recommendations favourable to the Sudan and providing for the following:-

a- Noting with appreciation the willingness of the government of the Sudan to co-operate with the Commission by furnishing replies and

observations relating to the material which the Commission has before it.

b-. Expressing the hope that the recommendations emanating from the Conference on Justice and Legal Reform will continue to be implemented by the Government and that the National Dialogue Conference on Peace Issues will take place in the near future.

c- Decides to keep the human rights situation in the Sudan under review within the framework of Economic and Social Council resolution 1503 (XLVIII) in the light of any further observations or replies received from the Government of the Sudan pursuant to this decision and such information as may reach the Commission under Council resolution 1503 (XLVIII);

d- Calls on the Government of the Sudan to continue to co-operate with the Commission by furnishing observations clarifying the issues raised in the material which the Commission has before it.

Since those recommendations were similar to the recommendations made to the Forty-Seventh session, one would have expected no more politicization than a similar decision of the one adopted by the Forty-Seventh session. But that was not the case because the sponsors of the decision, working according to their own political agenda, have decided to escalate the confrontation with the Sudan by ignoring, for the second time, the recommendations of the Working Group, which is the technical advisory body of the Commission, and furthermore by including a paragraph in the decision requesting the Chairman of the Commission to appoint an independent expert for the Sudan.

To conclude on this point we note that Amnesty International has avoided referring to those recommendations which were unjustifiably turned down despite its claim, on page 108, that it was referring to all the UN bodies which have considered complaints against the Government of the Sudan.

THE CONCLUSION

It is evident from the explanations elaborated above that the conclusions and recommendations contained in the book published by Amnesty International under the title "The Tears of Orphans" have no factual grounds nor any legal, moral or even logical justifications. Those explanations could be briefly summed up in the following:-

1. The explicit call by Amnesty International for the abolition of Islamic Penal Laws is unwarranted and is in itself a violation of the International Human Rights Law, in particular Article 18 of the International Covenant on Civil and Political Rights which provides that everyone shall have the right to freedom of religion which includes freedom to manifest the religion in worship observance, practice and teaching. Consequently, Amnesty International should withdraw such call and openly apologize for having violated the right of all Muslims to freedom of religion and for having offended their feelings, otherwise all organizations with which Amnesty International has a formal relation, in particular UN bodies, should review such relation.

2. On the other hand, the bias of Amnesty International towards Islam has caused it to hold the current Government of the Sudan, which is advocating Islam responsible for violations committed in 1985, long before it has assumed power. Actually, Amnesty International has never before made a publication addressing those violations, and has been waiting for a government advocating Islam to pay the overdue bills.

3. Amnesty International has failed to explain why has it selected the Sudan out of the 150 countries referred to in its 1994 report, and has admitted that it does not grade countries according to their record on human rights. Moreover, the selectivity practiced by Amnesty International against the Sudan is evident beyond any shadow of doubt since it has singled out the Sudan for its campaign despite the fact that the violations committed in other countries, according to US Country Report of February 1994, exceeds, by far, the alleged violations committed by the Sudan.

4. Amnesty International is interested in publishing allegations against the Sudan irrespective of their credibility so as to attain its ulterior objective of distorting the image of the Government of the Sudan. That explains why it has decided to publish the allegations before its scheduled visit to the Sudan in March 1995 thereby rendering such visit meaningless. On the other hand, it seems that Amnesty International did not want to risk waiting the conclusion of its visit to the Sudan since, during the visit, evidence refuting the allegations might come out, leaving Amnesty International with nothing to use against the Government.

5. The allegations levelled by Amnesty International against the Sudan have included sweeping generalizations like "thousands of people...have disappeared" and "thousands of people have been extra judicially executed". Such generalizations contradict with the most recent reports submitted by the different agents of the Commission on Human Rights like the report of the Working Group on Enforced or Involuntary Disappearances contained in document (E/CN.4/1995/36) dated 30 December 1994, and the report of the Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions contained in document (E/CN.4/1995/61) dated 14 December 1994.

6. The allegations made by Amnesty International that the independence of the judiciary has been undermined "through constitutional changes" and assumption of "wide-ranging powers over the appointment of judges" has no factual base whatsoever since the judiciary was one of the institutions whose legislative framework, prevailing during the multi party democracy, has been maintained as it was under the Judiciary Act of 1986. So Amnesty International was distorting the facts.

7. Amnesty International has raised allegations already verified by the Special Rapporteur during his visit to the Sudan in December 1993, despite the fact that the Special Rapporteur has never referred to them again in his latest reports.

8. To give a dramatic impact to the book, Amnesty International has been keen to put some photographs like the photograph of Kober Prison, but has, unfairly, declined to put the comment made by the Independent Expert of the Commission on Human Rights who has visited that prison in 1992 and made the following comment, "The Independent Expert is inclined to conclude that human

rights are respected in Kober Prison. This opinion is shared by independent sources also."

9. With regard to torture, Amnesty International has failed to acknowledge that public figures, previously detained in the Sudan, have appeared on Sudan TV refuting allegations of torture. Nor has it acknowledged that the Judiciary in the Sudan has investigated allegations of torture.

10. With regard to the displaced people the government plans for their resettlement around Khartoum has proved to be the miraculous lasting solution for their problems. Currently, almost every displaced person is a landlord, after having been reduced to less than a tenant, owning 200 sq. m. formally registered in his/her name. The services are not yet ideal but has improved to a great extent and the site (Dar-Al-Salam) which was "a dry and wind-swept" has already been approached by an asphalt road and so it will only take a ten minute drive to reach the heart of the old city of Omdurman. In addition, there is now regular transportation, so employment in Khartoum and interaction with the old city is no longer a problem and we can confidently claim that if those people are given the free choice, the overwhelming majority of them would opt to stay where they are and not return to their rough old shelters. So there is no merit in the allegations raised in that respect by Amnesty International.

11. The Government policy of the discontinuation of the provision of board and lodging in some universities has resulted in the opening of more than 20 new universities and high institutes distributed among the different regions of the Sudan. So the protests of the students, who are the beneficiaries of the old policy (no longer adopted anywhere in the world), are nothing serious to report about.

12. The bias of Amnesty International towards the Government applying Islam in the Sudan is further exemplified by its insistence to report even a few hours, detention.

13. Amnesty International has depicted the children welfare measures taken by the Government of the Sudan as arbitrary detention. In doing so it was reiterating the hearsay evidence which the Special Rapporteur, Mr. Gaspar Biro, when visiting the Sudan during December 1993, has refused to substantiate by turning down the Government's invitation to visit Soba Camp which Amnesty International is referring to as a "clearing centre" with all the negative

connotations accompanying that reference. To say the least, the efforts of the Government of the Sudan regarding street children, despite its meager resources, should have been commended by Amnesty International rather than condemned.

14. The animosity of Amnesty International toward Islam has led it to the extent of assuming the mandate of interpreting Article 7 of the International Covenant on Civil and Political Rights by claiming that the Islamic penal laws are "cruel, inhuman and degrading". What is serious about such unwarranted interpretation is that it has been cited by Amnesty International in such a way as to look as if it was provided for in the International Covenant on Civil and Political Rights itself.

15. Regarding death penalty, we point out that it is perfectly legal, under domestic and international law for all countries not ratifying the optional protocol pertaining thereto (majority of UN member States). And that the opposition of Amnesty International to death penalty doesn't, in any way, affect its legitimacy referred to above.

16. More surprisingly, Amnesty International has even challenged the Governments which do not believe in the unfounded allegations levelled against the Government of the Sudan quote, "some governments have begun to play down the seriousness of the human rights violations (in Sudan) in pursuit of their own political interests."

17. When referring to the UN bodies that have considered complaints against the Sudan, Amnesty International has intentionally declined to refer to the Working Groups on Situations to the 47th and 48th sessions of the Commission on Human Rights which have made recommendations favouring the Sudan but were turned down in an unprecedented manner due to the pressures exerted by some countries for political considerations.

In conclusion, and in view of the above explanations the book published by Amnesty International under the title "The Tears of Orphans" including its conclusions and recommendations should be totally disregarded by all human rights observers, in particular all UN bodies.

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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 7 March 1995 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I present my compliments to the Chairman of the fifty-first session of the United Nations Commission on Human Rights and have the honour to transmit herewith the letter of 7 March 1995 No. 66/12 of the same date to be circulated as a document of the session.

(Signed) S. Eivazova

GE.95-12471 (E)

I have the honour to inform you that yesterday I received from the Ministry for Foreign Affairs of the Azerbaijani Republic information saying that on 5 March 1995 military forces of the Republic of Armenia had launched a heavy attack at Azerbaijani regions Tovuz, Kedabek and Akstafa, which are situated far from the Nagorno-Karabakh region of Azerbaijan.

Armenian military forces used tanks and heavy artillery. There are numerous victims among the civilian population of above-mentioned regions of Azerbaijan.

Having informed you, I would like to ask you to take all necessary measures to stop this bloodshed and to denounce the aggressors.